



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Steve Tate, Mayor	Steve Tate, Chair
Marby Lee, Mayor Pro Tempore	Marby Lee, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

WEDNESDAY, SEPTEMBER 17, 2008

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL & REGULAR MEETING

AND

REDEVELOPMENT AGENCY REGULAR MEETING

6:00 P.M.

A Special Meeting of the City Council is called at 6:00 P.M. for the Purpose of Conducting Closed Sessions and Library, Cultural and Arts Commission Interviews.

Steve Tate, Mayor

CALL TO ORDER

(Mayor/Chairperson Tate)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

City Council Action

CLOSED SESSIONS:

1.

PUBLIC EMPLOYEE APPOINTMENT

Authority: Government Code Sections 54957
 Consideration of Appointment: City Attorney
 Attendees: City Manager, Interim City Attorney, Bob Murray

2.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957
 Public Employee Performance Evaluation: City Manager
 Attendees: City Council, City Manager

3.

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Case Name: Myers v. City of Morgan Hill
 Case Number: Workers Compensation Claim # 07000728
 Attendees: City Manager, Interim City Attorney, Assistant to the City Manager

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

City Council Action

INTERVIEWS:

	Time Estimate		Page
1.	30 Minutes	<u>INTERVIEWS TO FILL A VACANCY ON THE LIBRARY, CULTURE & ARTS COMMISSION</u>1 <u>Recommended Action(s):</u> 1. Council <u>Discussion</u> About the Characteristics/Traits it is Seeking in Candidates to Serve on the Culture & Arts Commission; 2. Council to <u>Conduct</u> Interviews; 3. Council to <u>Identify</u> its Top Candidate, Plus 1, as Deemed Appropriate; and 4. Mayor to <u>Return with Recommended</u> Appointment for Council Discussion and Ratification of Appointment; <u>or</u> 5. Mayor to <u>Appoint</u> to Fill One (1) Vacancy on the Library, Culture & Arts Commission; Term Expiring April 1, 2010.	

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

PRESENTATION

*Santa Clara County Fire's 60th Anniversary
Fire Chief Ken Waldvogel*

RECOGNITIONS

CITY COUNCIL REPORTS

Mayor Pro Tempore Lee

CITY COUNCIL COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

City Treasurer's Quarterly Report
City Treasurer Roorda

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL AND FOR THE REDEVELOPMENT AGENCY. PLEASE
COMPLETE A SPEAKER CARD AND PRESENT IT TO THE CITY CLERK/AGENCY SECRETARY.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

City Council Action

CONSENT CALENDAR:

ITEMS 2-16

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
2.	<u>ACCEPTANCE OF PHASE I PUBLIC IMPROVEMENTS FOR COCHRANE COMMONS RETAIL CENTER</u> 17 <u>Recommended Action(s):</u> 1. <u>Adopt</u> Resolution Accepting the Phase I Subdivision Improvements for the Cochrane Commons Retail Center; and 2. <u>Direct</u> the City Clerk to File a Notice of Completion with the County Recorder's Office.	
3.	<u>ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9919, CAPRIANO PHASE 8</u> 23 <u>Recommended Action(s):</u> 1. <u>Adopt</u> Resolution Accepting the Subdivision Improvements Included in Tract 9919, Commonly Known as Capriano Phase 8; and 2. <u>Direct</u> the City Clerk to File a Notice of Completion with the County Recorder's Office.	
4.	<u>ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9629, ROYAL COURT</u> 29 <u>Recommended Action(s):</u> 1. <u>Adopt</u> Resolution Accepting the Subdivision Improvements Included in Tract 9629, Commonly Known as Royal Court; and 2. <u>Direct</u> the City Clerk to File a Notice of Completion with the County Recorder's Office.	
5.	<u>APPROVE PAYMENT TO PG&E FOR THIRD STREET UNDERGROUNDING UTILITY PROJECT</u> 35 <u>Recommended Action(s):</u> <u>Approve</u> Payment to PG&E and <u>Authorize</u> the City Manager to Execute the Service Agreement with PG&E in the Amount of \$89,146 for Completing the Engineering Review and Final Electric Connection Costs for the Third Street Undergrounding Utility Project; Subject to Review and Approval by the City Attorney.	
6.	<u>AUGUST 2008 FINANCE & INVESTMENT REPORT – CITY</u> 39 <u>Recommended Action(s):</u> <u>Accept</u> and <u>File</u> Report.	
7.	<u>JANITORIAL SERVICES AGREEMENT AMENDMENT</u> 67 <u>Recommended Action(s):</u> 1. <u>Approve</u> an Amendment to the Centennial Recreation Center Janitorial Services Maintenance Agreement Extending Services to the Centennial Recreation Center, Aquatics Center and Outdoor Sports Center Through June 30, 2009, with Sunnyvale Building Maintenance in the Amount of \$61,677; and 2. <u>Authorize</u> the City Manager to Execute the Agreement on Behalf of the City; Subject to Review and Approval by the City Attorney.	
8.	<u>RECREATION APPAREL PURCHASE</u> 71 <u>Recommended Action(s):</u> <u>Award</u> Recreation Apparel Bid to Ash Tees Screen Printing for the Purchase of Recreation and Community Services Department Apparel.	
9.	<u>SOUTH COUNTY AIRPORT COMPREHENSIVE LAND USE PLAN</u> 73 <u>Recommended Action(s):</u> <u>Accept</u> and <u>File</u> Report.	
10.	<u>SOUTH VALLEY DISPOSAL AND RECYCLING SCHEDULE CHANGE REQUEST</u> 87 <u>Recommended Action(s):</u> <u>Direct</u> Staff to Notify South Valley Disposal and Recycling that the City Does Not Object to a Service Day Shift in Recognition of the Thanksgiving Holiday Provided that South Valley Undertakes Significant Efforts to Notify Customers of the Changed Schedule.	
11.	<u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF SEPTEMBER 8, 2008</u> 89	
12.	<u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF SEPTEMBER 10, 2008</u> 91	

Time Estimate	Page
Consent Calendar: 1 - 10 Minutes	
13. <u>ADOPT ORDINANCE NO. 1896, NEW SERIES</u>	93
Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1896, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 2.56.020 [MEMBERSHIP] OF CHAPTER 2.56 [ARCHITECTURAL AND SITE REVIEW BOARD] OF TITLE 2 [ADMINISTRATION AND PERSONNEL] OF THE MORGAN HILL MUNICIPAL CODE.	
14. <u>ADOPT ORDINANCE NO. 1897, NEW SERIES</u>	97
Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1897, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM CL-R TO CL-R/PD AND ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR A 3,054 SQUARE FOOT COMMERCIAL STRUCTURE ON A .52 ACRE SITE LOCATED ON THE EAST SIDE OF MONTEREY ROAD 50 FEET SOUTH OF THE BISCEGLIA INTERSECTION (ZA-08-13: MONTEREY-DINCER).	
15. <u>ADOPT ORDINANCE NO. 1899, NEW SERIES</u>	103
Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1899, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING CHAPTERS 18.04 ZONING DEFINITIONS AND CHAPTERS 18.14, 18.16, 18.17, 18.19, 18.20, 18.22, 18.24 & 18.25 OF MORGAN HILL MUNICIPAL CODE INSERTING LARGE AND SMALL CONGREGATE CARE, NURSING HOMES AND CONGREGATE CARE FOR THE ELDERLY AS EITHER A PERMITTED OR A CONDITIONAL USE (ZA-08-017: CITY OF MORGAN HILL-SENIOR HOUSING DEFINITIONS).	
16. <u>ADOPT ORDINANCE NO. 1900, NEW SERIES</u>	117
Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1900, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-04D: EAST MAIN-MARRAD/DIVIDEND.	

City Council Action

CONSENT CALENDAR:

ITEM 17-18

Time Estimate	Page
Consent Calendar: 1 - 10 Minutes	
17. <u>AWARD FISCAL YEAR 2008-2009 SEWER POINT REPAIR PROJECT</u>	123
Recommended Action(s):	
1. <u>Approve</u> Project Plans and Specifications;	
2. <u>Award</u> Contract to Fermin Sierra Construction Inc. for the Fiscal Year 2008-2009 Sewer Point Repair Project in the Amount of 74,000; and	
3. <u>Authorize</u> Expenditure of Construction Contingency Funds Not to Exceed \$7,400.	

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

18. [**ADOPT ORDINANCE NO. 1898, NEW SERIES**](#)127
Recommended Action(s): Waive the Reading, and Adopt Ordinance No. 1898, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-07D: WRIGHT AVENUE-MANANA INVESTORS.**

Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 19

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

19. [**AUGUST 2008 FINANCE & INVESTMENT REPORT – RDA**](#) 133
Recommended Action(s): Accept and File Report.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 20-25

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

20. [**FIRST CONTRACT AMENDMENT WITH FEHR & PEERS FOR ADDITIONAL SERVICES TO PROVIDE TRANSPORTATION REPORT FOR MASTER ENVIRONMENTAL IMPACT REPORT TO ANALYZE GENERAL PLAN CIRCULATION ELEMENT AMENDMENTS**](#) 143
Redevelopment Agency Recommended Action(s): Authorize the Executive Director to Execute the First Amendment of Contract with Fehr & Peers; Subject to Review and Approval by Agency Counsel.
City Council Recommended Action(s): Approve Budget Amendment to Increase Contract Services Accounts by a Total of \$75,000.
21. [**CARRYOVER OF ENCUMBRANCES FROM FISCAL YEAR 2007-2008 TO FISCAL YEAR 2008-2009**](#)..... 153
Recommended Action(s): Receive and File Report.
22. [**FISCAL YEAR 2007-2008 YEAR-END BUDGET AMENDMENTS**](#) 157
Recommended Action(s): Increase Fiscal Year 2007-2008 Budget Appropriations.
23. [**REAPPROPRIATION OF FISCAL YEAR 2007-2008 PROJECTS AND PROGRAMS**](#) 161
Recommended Action(s): Approve the Reappropriation of Fiscal Year 2007-2008 Project and Program Costs in the Fiscal Year 2008-2009 Budget.
24. [**APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF AUGUST 27, 2008**](#) 165

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	

25.	<u>APPROVE JOINT REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 3, 2008</u>	191
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City Council Action

PUBLIC HEARINGS:

	Time Estimate	Page
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26.	20 Minutes	<u>GPA-08-10/ZA-08-12: BARRETT – COLSON & COLSON CONSTRUCTION COMPANY</u>	193
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Adopt</u> Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.	
		Action- <u>Adopt</u> General Plan Amendment Resolution.	
		Action- <u>Motion to Waive</u> the Reading in Full of Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	

City Council Action

OTHER BUSINESS:

	Time Estimate	Page
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27.	10 Minutes	<u>DEVELOPMENT SERVICE CENTER SITE IMPROVEMENTS AND FURNITURE</u>	243
		<u>Recommended Action(s):</u>	
		1. <u>Authorize</u> a Construction Change Order from Project Contingency Funds Not to Exceed \$181,000; for Existing Parking Lot and Site Improvements;	
		2. <u>Authorize</u> the City Manager to Execute a Third Amendment to RMW Contract in the Amount of \$46,290, Subject to Review and Approval by the City Attorney; and	
		3. <u>Authorize</u> the City Manager to Execute a Purchase Order with Pivot Interiors to Provide and Install the Long Lead Time Office Furniture for the Development Service Center in an Amount Not to Exceed \$397,057.96, Subject to Review and Approval by the City Attorney.	
28.	5 Minutes	<u>ADOPT ORDINANCE NO. 1901, NEW SERIES</u>	249
		<u>Recommended Action(s):</u> <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1901, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-06C: GINGER – CUSTOM ONE.	
29.	10 Minutes	<u>CALIFORNIA HIGH-SPEED RAIL NOVEMBER BALLOT MEASURE</u>	255
		<u>Recommended Action(s):</u> <u>Accept</u> and <u>File</u> Report.	

Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
30.	10 Minutes	<u>ECONOMIC DEVELOPMENT STUDY</u>	257
		<u>Recommended Action(s):</u> <u>Authorize</u> the Executive Director to Amend the Existing Agreement with CBRE Consulting, Inc. to Proceed with Both Phase I and Phase II of the Economic Development Study in an Amount Not to Exceed \$53,000, Subject to Review and Approval by Agency Council; and Contingent Upon the Morgan Hill Business Improvement Organizations' Ability to Provide Full Funding for Phase II as Outlined in the Staff Report.	

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
31.	5 Minutes	<u>QUARTERLY STATUS REPORT ON PUBLIC SAFETY & COMMUNITY SERVICES COMMITTEE 2008-2009 WORK PLAN</u>	267
		<u>Recommended Action(s):</u> <u>File</u> Quarterly Status Report for Public Safety & Community Services Committee Work Plan.	
32.	5 Minutes	<u>QUARTERLY REPORT ON COMMUNITY AND ECONOMIC DEVELOPMENT (C&ED) COMMITTEE</u>	271
		<u>Recommended Action(s):</u> <u>Accept</u> First Quarter Report for Fiscal Year 2008-2009 from the C&ED.	

FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT

NOTICE

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17555 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

PUBLIC COMMENTS ON ITEMS *NOT* APPEARING ON AGENDA

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

NOTICE

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.